

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2007-176

HEATHER HYONUK UOO
830 Reichert Ave.
Novato, CA 94945

Registered Nurse License No. 522829

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 27, 2008.

It is so ORDERED December 27, 2007

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST, State Bar No. 203296
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-176

12 **HEATHER HYONUK UOO**
830 Reichert Ave.
13 Novato, CA 94945

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Registered Nurse License No. 522829

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with
17 the public interest and the responsibility of the Board of Registered Nursing of the Department of
18 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
19 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
20 disposition of the Accusation.

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), is the Executive Officer of
23 the Board of Registered Nursing (Board), Department of Consumer Affairs. She brought this
24 action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr.,
25 Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney General.

26 2. Respondent Heather Hyonuk Uoo (Respondent) is represented in this
27 proceeding by attorney Patrick W. Jordan, whose address is 1010 B Street, Suite 320,
28 San Rafael, CA, 94901.

1 3. On or about June 25, 1996, the Board issued Registered Nurse License No.
2 522829 to Respondent. The license was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 2007-176 and will expire on June 30, 2008, unless renewed.

4 **JURISDICTION**

5 4. Accusation No. 2007-176 was filed before the Board on December 19,
6 2006, and is currently pending against Respondent. A copy of the Accusation is attached as
7 exhibit A and incorporated herein by reference. The Accusation and all other statutorily required
8 documents were properly served on Respondent on December 26, 2006. Respondent timely filed
9 her Notice of Defense contesting the Accusation.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, discussed with counsel, and fully
12 understands the charges and allegations in Accusation No. 2007-176. Respondent has also
13 carefully read, discussed with counsel, and fully understands the effects of this Stipulated
14 Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
18 the right to present evidence and to testify on her own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly and intelligently waives and gives up
23 each and every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits to unprofessional conduct as reflected in the Second,
26 Third and Fourth Causes for Discipline alleged in Accusation No. 2007-176. She neither admits
27 nor denies the First Cause for Discipline. Respondent acknowledges that her Registered Nurse
28 License is subject to discipline and she agrees to be bound by the Board's imposition of

1 discipline as set forth in the Disciplinary Order below.

2 **CIRCUMSTANCES IN MITIGATION**

3 9. Respondent has been a Registered Nurse for over 11 years and has never
4 before been the subject of disciplinary action before the Board. Respondent has been
5 continuously employed since the incidents which gave rise to the pending Accusation. She
6 currently works as a medical surgical acute care unit staff nurse at Kaiser San Rafael Medical
7 Center. Respondent has produced four letters of recommendation, including a letter from her
8 former supervisor which describes her as "professional," "knowledgeable," and "organized." A
9 letter from her current supervisor at Kaiser describes her as a "well regarded" team member who
10 "shows initiative in meeting the needs of her patients." Respondent voluntarily, and at her own
11 expense, submitted to drug testing, producing three negative tests on October 21, 2005,
12 November 29, 2005, and January 20, 2006.

13 **CONTINGENCY**

14 10. This stipulation shall be subject to Board approval. Respondent
15 understands and agrees that counsel for Complainant and Board staff may communicate directly
16 with the Board regarding this stipulation and settlement, without notice to or participation by
17 Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that
18 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
19 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
20 the Stipulated Settlement and Disciplinary Order shall be of no force or effect and, except for this
21 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
22 be disqualified from further action by having considered this matter.

23 **OTHER MATTERS**

24 11. The parties understand and agree that facsimile copies of this Stipulated
25 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
26 force and effect as the originals.

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1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of
5 residency or practice as a registered nurse outside of California shall not apply toward a
6 reduction of this probation time period. Respondent's probation is tolled, if and when she resides
7 outside of California. Respondent must provide written notice to the Board within 15 days of any
8 change of residency or practice outside the state, and within 30 days prior to re-establishing
9 residency or returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency
22 in every state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24
25 hours per week for 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
3 Board.

4 If Respondent has not complied with this condition during the probationary term,
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may
7 grant an extension of Respondent's probation period up to one year without further hearing in
8 order to comply with this condition. During the one year extension, all original conditions of
9 probation shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent
11 shall obtain prior approval from the Board before commencing or continuing any employment,
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to her employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within
18 seventy-two (72) hours after she obtains any nursing or other health care related employment.
19 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
20 terminated or separated, regardless of cause, from any nursing, or other health care related
21 employment with a full explanation of the circumstances surrounding the termination or
22 separation.

23 **8. Supervision.** Respondent shall obtain prior approval from the Board
24 regarding Respondent's level of supervision and/or collaboration before commencing or
25 continuing any employment as a registered nurse, or education and training that includes patient
26 care.

27 Respondent shall practice only under the direct supervision of a registered nurse
28 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative

1 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
2 are approved.

3 Respondent's level of supervision and/or collaboration may include, but is not
4 limited to the following:

5 (a) Maximum - The individual providing supervision and/or collaboration is
6 present in the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in
8 the patient care unit or in any other work setting at least half the hours Respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has
10 person-to-person communication with Respondent at least twice during each shift worked.

11 (d) Home Health Care - If Respondent is approved to work in the home health
12 care setting, the individual providing supervision and/or collaboration shall have person-to-
13 person communication with Respondent as required by the Board each work day. Respondent
14 shall maintain telephone or other telecommunication contact with the individual providing
15 supervision and/or collaboration as required by the Board during each work day. The individual
16 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
17 site visits to patients' homes visited by Respondent with or without Respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's
19 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
20 traveling nurse, or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse
22 unless the registered nursing supervision and other protections for home visits have been
23 approved by the Board. Respondent shall not work in any other registered nursing occupation
24 where home visits are required.

25 Respondent shall not work in any health care setting as a supervisor of registered
26 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
27 nurses and/or unlicensed assistive personnel on a case-by-case basis.

28 Respondent shall not work as a faculty member in an approved school of nursing

1 or as an instructor in a Board approved continuing education program.

2 Respondent shall work only on a regularly assigned, identified and predetermined
3 worksite(s) and shall not work in a float capacity.

4 If Respondent is working or intends to work in excess of 40 hours per week, the
5 Board may request documentation to determine whether there should be restrictions on the hours
6 of work.

7 10. **Complete a Nursing Course.** Respondent, at her own expense, shall
8 enroll and successfully complete a course relevant to the practice of registered nursing no later
9 than six months prior to the end of her probationary term.

10 Respondent shall obtain prior approval from the Board before enrolling in the
11 course. Respondent shall submit to the Board the original transcripts or certificates of
12 completion for the above required course. The Board shall return the original documents to
13 Respondent after photocopying them for its records.

14 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
15 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
16 amount of \$5,000.00. Respondent shall be permitted to pay these costs in a payment plan
17 approved by the Board, with payments to be completed no later than three months prior to the
18 end of the probation term.

19 If Respondent has not complied with this condition during the probationary term,
20 and Respondent has presented sufficient documentation of her good faith efforts to comply with
21 this condition, and if no other conditions have been violated, the Board, in its discretion, may
22 grant an extension of Respondent's probation period up to one year without further hearing in
23 order to comply with this condition. During the one year extension, all original conditions of
24 probation will apply.

25 12. **Violation of Probation.** If Respondent violates the conditions of her
26 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
27 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
28 license.

1 If during the period of probation, an accusation or petition to revoke probation has
2 been filed against Respondent's license or the Attorney General's Office has been requested to
3 prepare an accusation or petition to revoke probation against Respondent's license, the
4 probationary period shall automatically be extended and shall not expire until the accusation or
5 petition has been acted upon by the Board.

6 **13. License Surrender.** During Respondent's term of probation, if she ceases
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
8 probation, Respondent may surrender her license to the Board. The Board reserves the right to
9 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
10 take any other action deemed appropriate and reasonable under the circumstances, without
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
12 will no longer be subject to the conditions of probation.

13 Surrender of Respondent's license shall be considered a disciplinary action and
14 shall become a part of Respondent's license history with the Board. A registered nurse whose
15 license has been surrendered may petition the Board for reinstatement no sooner than the
16 following minimum periods from the effective date of the disciplinary decision:

17 (1) Two years for reinstatement of a license that was surrendered for any
18 reason other than a mental or physical illness; or

19 (2) One year for a license surrendered for a mental or physical illness.

20 **14. Physical Examination.** Within 45 days of the effective date of this
21 decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
22 physician assistant, who is approved by the Board before the assessment is performed, submit an
23 assessment of the Respondent's physical condition and capability to perform the duties of a
24 registered nurse, including a determination as set forth below in Condition 16, "Rule-Out
25 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
26 the Board. If medically determined, a recommended treatment program will be instituted and
27 followed by the Respondent with the physician, nurse practitioner, or physician assistant
28 providing written reports to the Board on forms provided by the Board.

1 If Respondent is determined to be unable to practice safely as a registered nurse,
2 the licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
5 shall immediately cease practice and shall not resume practice until notified by the Board.
6 During this period of suspension, Respondent shall not engage in any practice for which a license
7 issued by the Board is required until the Board has notified Respondent that a medical
8 determination permits Respondent to resume practice. This period of suspension will not apply
9 to the reduction of this probationary period.

10 If the Respondent fails to have the above assessment submitted to the Board
11 within the 45-day requirement, Respondent shall immediately cease practice and shall not
12 resume practice until notified by the Board. This period of suspension will not apply to the
13 reduction of this probationary time period. The Board may waive or postpone this suspension
14 only if significant, documented evidence of mitigation is provided. Such evidence must establish
15 good faith efforts by the Respondent to obtain the assessment, and a specific date for compliance
16 must be provided. Only one such waiver or extension may be permitted.

17 **15. Mental Health Examination.** The Respondent shall, within 45 days of
18 the effective date of this decision, have a mental health examination including psychological
19 testing as appropriate to determine her capability to perform the duties of a registered nurse,
20 including a determination as set forth below in Condition 16, "Rule-Out Substance Abuse
21 Assessment." The examination will be performed by a psychiatrist, psychologist or other
22 licensed mental health practitioner approved by the Board. The examining mental health
23 practitioner will submit a written report of that assessment and recommendations to the Board.
24 All costs are the responsibility of the Respondent. Recommendations for treatment, therapy or
25 counseling made as a result of the mental health examination will be instituted and followed by
26 the Respondent.

27 If Respondent is determined to be unable to practice safely as a registered nurse,
28 the licensed mental health care practitioner making this determination shall immediately notify

1 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
2 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
3 practice and may not resume practice until notified by the Board. During this period of
4 suspension, Respondent shall not engage in any practice for which a license issued by the Board
5 is required, until the Board has notified Respondent that a mental health determination permits
6 Respondent to resume practice. This period of suspension will not apply to the reduction of this
7 probationary time period.

8 If Respondent fails to have the above assessment submitted to the Board within
9 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
10 practice until notified by the Board. This period of suspension will not apply to the reduction of
11 this probationary time period. The Board may waive or postpone this suspension only if
12 significant, documented evidence of mitigation is provided. Such evidence must establish good
13 faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must
14 be provided. Only one such waiver or extension may be permitted.

15 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the
16 physical and/or mental health examination determines that the Respondent is dependent upon
17 drugs or alcohol, or has had problems with drugs or alcohol (i.e., drug dependence in remission
18 or alcohol dependence in remission), that might reasonably affect the safe practice of nursing,
19 then the Respondent must further comply with the following additional terms and conditions of
20 probation.

21 **(a) Participate in Treatment/Rehabilitation Program for Chemical**
22 **Dependence.** Respondent, at her own expense, shall successfully complete during the
23 probationary period, or shall have successfully completed prior to commencement of probation, a
24 Board-approved treatment/rehabilitation program of at least six months duration. As required,
25 reports shall be submitted by the program on forms provided by the Board. If Respondent has
26 not completed a Board-approved treatment/rehabilitation program prior to commencement of
27 probation, Respondent, within 45 days from the effective date of this decision, shall be enrolled
28 in a program. If a program is not successfully completed within the first nine months of

1 probation, the Board shall consider Respondent in violation of probation.

2 Based on Board recommendation, each week Respondent shall be required to
3 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
4 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
5 by the Board. If a nurse support group is not available, an additional 12-step meeting or
6 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
7 such attendance to the Board during the entire period of probation. Respondent shall continue
8 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
9 mental health examiner and/or other ongoing recovery groups.

10 **(b) Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
11 shall completely abstain from the possession, injection or consumption by any route of all
12 psychotropic (mood-altering) drugs, including alcohol, except when the same are ordered by a
13 health care professional legally authorized to do so as part of documented medical treatment.
14 Respondent shall have sent to the Board, in writing and within 14 days, by the prescribing health
15 professional, a report identifying the medication, dosage, the date the medication was prescribed,
16 the Respondent's prognosis, the date the medication will no longer be required, and the effect on
17 the recovery plan, if appropriate.

18 Respondent shall identify for the Board a single physician, nurse practitioner, or
19 physician assistant who shall be aware of Respondent's history of substance abuse and will
20 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
21 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
22 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
23 condition. If any substances considered addictive have been prescribed, the report shall identify
24 a program for the time limited use of any such substances.

25 The Board may require the single coordinating physician, nurse practitioner, or
26 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
27 addictive medicine.

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1 (c) **Submit to Tests and Samples.** Respondent, at her expense, shall
2 participate in a random, biological fluid testing or a drug screening program which the Board
3 approves. The length of time and frequency will be subject to approval by the Board. The
4 Respondent is responsible for keeping the Board informed of Respondent's current telephone
5 number at all times. Respondent shall also ensure that messages may be left at the telephone
6 number when she is not available and ensure that reports are submitted directly by the testing
7 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
8 to the Board by the program and the Respondent shall be considered in violation of probation.

9 In addition, Respondent, at any time during the period of probation, shall fully
10 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
11 tests and samples as the Board or its representatives may require for the detection of alcohol,
12 narcotics, hypnotics, dangerous drugs, or other controlled substances.

13 If Respondent has a positive drug screen for any substance not legally authorized
14 and not reported to the coordinating physician, nurse practitioner, or physician assistant, the
15 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
16 from practice pending the final decision on the petition to revoke probation or the accusation.
17 This period of suspension will not apply to the reduction of this probationary time period.

18 If Respondent fails to participate in a random, biological fluid testing or drug
19 screening program within the specified time frame, the Respondent shall immediately cease
20 practice and shall not resume practice until notified by the Board. After taking into account
21 documented evidence of mitigation, if the Board files a petition to revoke probation or an
22 accusation, the Board may suspend Respondent from practice pending the final decision on the
23 petition to revoke probation or the accusation. This period of suspension will not apply to the
24 reduction of this probationary time period.

25 (d) **Therapy or Counseling Program.** Respondent, at her expense, shall
26 participate in an on-going counseling program until such time as the Board releases her from this
27 requirement and only upon the recommendation of the counselor. Written progress reports from
28 the counselor will be required at various intervals.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Patrick W. Jordan. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

10-18-07



HEATHER HYONUK UOO (Respondent)

I have read and fully discussed with my client, Respondent Heather Hyonuk Uoo, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

October 18, 2007



PATRICK W. JORDAN
Counsel for Respondent

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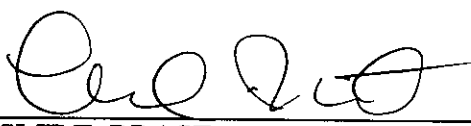
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: October 22, 2007

EDMUND G. BROWN JR., Attorney General
of the State of California

FRANK H. PACOE
Supervising Deputy Attorney General



LESLIE E. BRAST
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2006403274
40140100 v 3.wpd

Exhibit A
Accusation No. 2007-176

1 BILL LOCKYER, Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
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4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
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6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-176

12 **HEATHER HYONUK UOO**

OAH No.

13 830 Reichert Ave.

14 Novato, CA 94945

A C C U S A T I O N

15 Registered Nurse License No. 522829

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about June 25, 1996, the Board of Registered Nursing issued
23 Registered Nurse License Number 522829 to Heather Hyonuk Uoo (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on June 30, 2008, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2750 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
6 2750) of the Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
8 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
9 against the licensee or to render a decision imposing discipline on the license. Under section
10 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
11 the expiration.

12 6. Section 2761 of the Code states:

13 “The board may take disciplinary action against a certified or licensed nurse or
14 deny an application for a certificate or license for any of the following:

15 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

16 “(1) Incompetence, or gross negligence in carrying out usual certified or licensed
17 nursing functions.

18 “...”

19 7. Section 2762 of the Code states:

20 “In addition to other acts constituting unprofessional conduct within the meaning
21 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
22 under this chapter to do any of the following:

23 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
24 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
25 or administer to another, any controlled substance as defined in Division 10 (commencing with
26 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
27 defined in Section 4022.

1 “(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
2 entries in any hospital, patient, or other record pertaining to the substances described in
3 subdivision (a) of this section.”

4 8. Section 4021 of the Code states:

5 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
6 with Section 11053) of Division 10 of the Health and Safety Code.”

7 9. Section 4022 of the Code states:

8 “Dangerous drug” or “dangerous device” means any drug or device unsafe for
9 self-use, except veterinary drugs that are labeled as such, and includes the following:

10 “(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing
11 without prescription,” “Rx only,” or words of similar import.

12 “(b) Any device that bears the statement: “Caution: federal law restricts this
13 device to sale by or on the order of a _____,” “Rx only,” or words of similar import, the
14 blank to be filled in with the designation of the practitioner licensed to use or order use of the
15 device.

16 “(c) Any other drug or device that by federal or state law can be lawfully
17 dispensed only on prescription or furnished pursuant to Section 4006.”

18 10. California Code of Regulations, title 16, section 1442, states:

19 “As used in Section 2761 of the code, ‘gross negligence’ includes an extreme
20 departure from the standard of care which, under similar circumstances, would have ordinarily
21 been exercised by a competent registered nurse. Such an extreme departure means the repeated
22 failure to provide nursing care as required or failure to provide care or to exercise ordinary
23 precaution in a single situation which the nurse knew, or should have known, could have
24 jeopardized the client's health or life.”

25 11. California Code of Regulations, title 16, section 1443, states:

26 “As used in Section 2761 of the code, ‘incompetence’ means the lack of possession
27 of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed
28 and exercised by a competent registered nurse as described in Section 1443.5.”

12. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

"(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

"(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

"(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

"(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

"(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

"(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

13. **Hydrocodone** is the generic name for **Vicodin**, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(j) and a dangerous drug per Business and Professions Code section 4022. Hydrocodone is a narcotic analgesic that is

1 used to treat pain.

2 14. **Morphine** is a Schedule II controlled substance as designated by Health
3 and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug per Business and
4 Professions Code section 4022.

5 15. **Oxycodone** is the generic name for **Percocet**, a Schedule II controlled
6 substance as designated by Health and Safety Code section 11055(b)(1)(N) and is a dangerous
7 drug per Business and Professions Code Section 4022. Oxycodone is a narcotic analgesic that is
8 used for its calming effect on pain.

9 16. **Acetaminophen**, also known as **Tylenol**, is a non-prescription analgesic
10 drug.

11 **COST RECOVERY**

12 17. Section 125.3 of the Code provides, in pertinent part, that the Board may
13 request the administrative law judge to direct a licensee found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 **FACTUAL SUMMARY**

17 18. In August and September, 2005, Respondent was employed as a
18 registered nurse at Marin General Hospital in San Rafael, California.

19 19. During Respondent's employment at Marin General Hospital an audit
20 revealed numerous instances when Respondent withdrew controlled substances from the
21 Hospital's Pyxis¹ system and failed to account for some or all of the drugs withdrawn. The
22 circumstances of these withdrawals are set forth below:

23 ///

24
25
26
27 1. Pyxis is a drug-dispensing machine that documents the withdrawal of medications by
28 nurses in the hospital. In order to obtain medications from the Pyxis, a nurse must enter into
the machine his or her log-on name and password.

Patient 1.²

a. On August 30, 2005, Patient 1's physician ordered "Tylenol 650 mg PR every 6 hours prn fever."

b. On August 31, 2005, Patient 1's physician ordered "Morphine 2 mg IV every 4 hours per mild-moderate pain; Morphine 4 mg IV every 4 hours per moderate pain; morphine 6 mg IV every 4 hours for severe pain."

c. On August 31, 2005, between 20:20 hours and 01:10 hours, Respondent charted the administration of morphine sulfate three times, for a total dose of 10 mg, in violation of the physician's orders which provided for a maximum dose of 6 mg in 4 hours..

d. On September 1, 2005, at 04:11 hours, Respondent removed 4 mg of morphine sulfate from the Pyxis but failed to chart administration of the medication or otherwise account for its disposition.

e. On September 1, 2005, at 04:59 hours, Respondent removed one suppository of acetaminophen 650 mg from the Pyxis but failed to chart administration of the medication or otherwise account for its disposition.

f. On September 1, 2005, at 05:09 hours, Respondent removed 2 mg morphine sulfate from the Pyxis but failed to chart administration of the medication or otherwise account for its disposition.

Patient 4

g. On September 1, 2005, Patient 4's physician ordered "Vicodin 1 tab 5/500 every 4 hours prn pain."

h. On September 2, 2005, at 03:55 hours, Respondent removed from the Pyxis one hydrocodone/APAP 5/500 tablet but failed to chart administration of the medication or otherwise account for its disposition.

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2. The identity of Patient 1 and other patients is withheld herein to protect patient confidentiality.

Patient 5

i. On August 29, 2005, at 12:30 hours, Patient 5's physician ordered "Percocet 1 tab po Q 4 hours prn mild pain, 2 tab po Q 4 hours prn moderate pain."

j. On September 1, 2005, at 03:30 hours, Respondent removed from the Pyxis two oxycodone/APAP 5/325 tablets but failed to chart administration of the medication or otherwise account for its disposition.

k. On September 2, 2005, at 02:04 hours, Respondent removed from the Pyxis two oxycodone/APAP 5/325 tablets but failed to chart administration of the medication or otherwise account for its disposition.

Patient 6

l. On September 1, 2005, at 17:00 hours, Patient 6's physician ordered "Acetaminophen (Tylenol) 650 mg PO/PR every 4hr PRN Headache or temp greater than 101."

m. On September 2, 2005, at 23:59 hours, Respondent withdrew from the Pyxis two acetaminophen 325 mg tablets but failed to chart administration of the medication or otherwise account for its disposition.

Patient 7

n. On August 27, 2005, at 18:00 hours, Patient 7's physician ordered "Hydrocodone/APAP 10/325, 2 tablets, every 4 hours as needed."

o. On August 31, 2005, at 20:19 hours, Respondent withdrew from the Pyxis one hydrocodone/APAP 10/325 mg tablet but failed to chart administration of the medication or otherwise account for its disposition.

p. On September 2, 2005, at 00:25 hours, Respondent withdrew from the Pyxis one hydrocodone/APAP 10/325 mg tablet but failed to chart administration of the medication or otherwise account for its disposition.

Patient 8

q. On August 12, 2005, at 09:00 hours, Patient 8's physician ordered "Morphine 2 mg IV Q 4 hours prn mod pain, Morphine 4 mg IV Q 4 hours prn very severe pain."

r. On September 1, 2005, at 06:35 hours, Respondent removed from the

Pyxis 2 mg of morphine sulfate but failed to chart administration of the medication or otherwise account for its disposition.

Patient 9:

s. On September 1, 2005, at 18:30 hours, Patient 9's physician ordered "Oxycodone 5 mg PO 4 times daily q 6 hours PRN pain" and "Simethicone³ 40 mg PO PRN."

t. On September 1, 2005, at 23:59 hours, Respondent removed from the Pyxis one oxycodone Immediate Release 5 mg tablet, but failed to chart administration of the medication or otherwise account for its disposition.

u. On September 2, 2005, at 00:08 hours, Respondent removed from the Pyxis one simethicone, 80 mg tablet, but failed to chart administration of the medication or otherwise account for its disposition.

v. On September 2, 2005, at 20:53 hours, Respondent removed from the Pyxis one oxycodone Immediate Release 5 mg tablet, but failed to chart administration of the medication or otherwise account for its disposition.

Patient 10

w. On September 1, 2005, Patient 10's physician ordered "Tylenol suppository grains X q 6 hours prn temp 100 or greater."

x. On September 1, 2005, at 20:55 hours, Respondent removed from the Pyxis one acetaminophen 650 mg suppository. On September 1, 2005, at 21:01 hours, Respondent removed from the Pyxis another acetaminophen 650 mg suppository. Respondent charted administration of one suppository to the patient but failed to chart administration of the other suppository or otherwise account for its disposition.

Patient 11

y. On September 1, 2005, at 08:45 hours, Patient 11's physician ordered "Vicodin i po q 6 hours mod pain, Vicodin ii po q 6 hours prn severe pain."

z. On September 2, 2005, at 04:48 hours, Respondent removed from the

3. Simethicone is an anti-gas medication.

Pyxis one hydrocodone/APAP, 5/500 mg tablet, but failed to chart administration of the medication or otherwise account for its disposition.

20. On May 15, 2006, Respondent was interviewed by an investigator regarding the allegations in this matter. During the interview Respondent revealed that she was in possession of medical records which pertained to the patients described in paragraph 19, above.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence)

21. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code in that she acted with incompetence and/or gross negligence in carrying out usual certified or licensed nursing functions, as set forth above in paragraphs 18 - 19.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

22. Respondent is subject to disciplinary action under section 2761(a) of the Code in that she acted unprofessionally, as set forth above in paragraphs 18-19.

THIRD CAUSE FOR DISCIPLINE

(Grossly Incorrect Medical Records)

23. Respondent is subject to disciplinary action under section 2762(e) of the Code in that she made grossly incorrect, grossly inconsistent, or unintelligible entries in a hospital record pertaining to controlled substances, as set forth above in paragraphs 18-19.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct -- Unlawfully Obtaining Medical Records)

24. Respondent is subject to disciplinary action under section 2761(a) of the Code and California Civil Code section 56.36 (c)(2) in that she knowingly and willfully obtained and retained medical information about patients in her care, as set forth above in paragraphs 18 - 20.

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1 PRAYER


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse, License Number 522829,
5 issued to Heather Hyonuk Uoo;

6 2. Ordering Heather Hyonuk Uoo to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 12/19/06

12
13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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